

Nonconforming Situations Regulations

(GRANDFATHERING)



What is a Nonconforming Situation

A nonconforming situation is a land use, structure, lot, or development that was legal when established but does not conform to the standards of the current zoning ordinance.

City Code, with certain restrictions and regulations, allows for such nonconforming situation to lawfully be retained.

This commonly referred to as “grandfathered” or “grandfathering”

Types of Nonconforming Situations

Nonconforming Use

Nonconforming Structure

Nonconforming Lot

Nonconforming Development

Nonconforming Uses

A use that, when established was allowed, but which subsequently, in City Code, is no longer allowed at a given location.

For example a small neighborhood corner store located in a residentially zoned area.

Nonconforming Structures

A structure that was originally constructed established in conformance with the setback, building height, or other requirements of City Code that relate to the design of a structure, but which subsequently, due to a change City Code, is no longer in conformance.

For example a home that was constructed in what is now a required side yard setback.

Nonconforming Lots

A lot of record that was established in conformance with the minimum lot area, width, and frontage requirements of City Code, but which subsequently, due to a change in City Code, is no longer in conformance with one or more of these requirements

For example a lawfully plated lot that does not meet the minimum size requirements of the zoning district in which it is located.

Nonconforming Developments

An element of a development, such as a parking area, a loading area, landscaping, screening, or signage, that was established in conformance with City Code, but which subsequently, due to a change in City Code, is no longer in conformance with the current applicable standards.

For example a gravel parking lot established prior to the requirement that parking lots be hard surfaced.

How Nonconforming Situations are Regulated

Nonconforming situations are allowed to legally continue so long as they are not:

Abandoned

Enlarged or expanded

Destroyed

Changed to conforming

Abandonment

When the intent of the owner to discontinue the use is apparent

When the characteristic equipment and the furnishings of the nonconforming use have been removed from the premises and have not been replaced by similar equipment within one year

When a nonconforming use is replaced by a conforming use

Repair and Restoration

If a nonconforming building or use is damaged by fire, explosion, or other catastrophe to such an extent that the cost of restoration would be less than 50% of the assessed value of the building at the time of the catastrophe, such building or use may be rebuilt or restored and used again as previously.

Such rebuilding or restoration shall be completed within twelve months after such catastrophe, and the building as restored shall not be greater in volume or floor space than the original nonconforming structure.

Issues With Current Nonconforming Regulations

Current regulations are not written in a manner that is easy for the layperson to understand.